

TTAB

UNITED STATES PATENT AND TRADEMARK  
OFFICE

Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Mailed: April 9, 2004

RECORD TOWN, INC.  
P. O. BOX 11580  
ALBANY, NY 12211

Serial No: 73366706  
Cancellation No. 92043138  
Reg. No. 1240451



IRENE M. GUIMERA  
GUIMERA & GUIMERA A LAW CORP  
1600 RROSECRANS AVE., SUITE 210  
MANHATTAN BEACH,, CA 90266-3708

04-19-2004

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #66

MICHAEL S. KATZ

V.

RECORD TOWN, INC.

**Shelley Jamison, Legal Assistant**

A petition, a copy of which is attached, has been filed to  
cancel the above-identified registration.

Proceedings will be conducted in accordance with the  
Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof.  
(See Trademark Rule 2.196 for expiration date falling on  
Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark  
Rules of Practice, set forth in Title 37, part 2, of the Code of  
Federal Regulations. The parties are reminded of the recent  
amendments to the Trademark Rules that affect the rules of  
practice before the TTAB. See Rules of Practice for Trademark-  
Related Filings Under the Madrid Protocol Implementation Act, 68  
Fed. R. 55,748 (September 26, 2003) (effective November 2,  
2003); Reorganization of Correspondence and Other Provisions, 68  
Fed. Reg. 48,286 (August 13, 2003) (effective September 12,  
2003). Notices concerning the rules changes, as well as the

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Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at [www.uspto.gov](http://www.uspto.gov).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

**Discovery and testimony periods are set as follows:**

Discovery period to open:	<b>April 29, 2004</b>
Discovery period to close:	<b>October 26, 2004</b>
30-day testimony period for party in position of plaintiff to close:	<b>January 24, 2005</b>
30-day testimony period for party in position of defendant to close:	<b>March 25, 2005</b>
15-day rebuttal testimony period for plaintiff to close:	<b>May 09, 2005</b>

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may

be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

**New Developments at the Trademark Trial and Appeal Board**

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Registration No. 1,240,451  
For the Mark COCONUTS and Design  
Registered May 31, 1983

MICHAEL S. KATZ,

CANCELLATION NO.

Petitioner,

Vs.

RECORD TOWN, INC.

Registrant.

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PETITION FOR CANCELLATION

Petitioner, Michael S. Katz, is an individual doing business as Matisse Footwear at 110 Maryland Street, El Segundo, California 90266. To the best of Petitioner's knowledge, the name and address of the current owner of the registration is Record Town, Inc., 38 Corporate Circle, Albany, New York 12203. Petitioner believes that it is being and will be damaged by the above-identified registration, and hereby petitions to cancel the same.

The grounds for cancellation are as follows:

1. Petitioner has filed an application, Serial Number 76/530689 for the registration of its mark COCONUTS BY MATISSE for footwear, namely shoes, sandals and boots.

2. The United States Patent and Trademark Office cited Registration No.

1,240,451 for the mark COCONUTS AND DESIGN for T-Shirts.

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3. Upon information and belief, Registrant is no longer using the trademark COCONUTS AND DESIGN for T-Shirts and its trademark Registration No. 1,240,451 has been abandoned.

4. Petitioner has owned the mark COCONUTS BY MATISSE and has used the same in interstate commerce in connection with footwear since 2000.

WHEREFORE, Petitioner prays that Respondent's trademark registration No. 1,240,451 be cancelled. Petitioner hereby submits the filing fee of \$300.00.

Please address all correspondence to Irene M. Guimera, Esq., Guimera & Guimera A Law Corporation, 1600 Rosecrans Avenue, Suite 210, Manhattan Beach, CA 90266.

March 25, 2004

Respectfully submitted,



Irene M. Guimera  
Attorney for Petitioner  
Guimera & Guimera A Law Corp.  
1600 Rosecrans Ave. Suite 210  
Manhattan Beach, CA 90266-3708  
Phone (310) 727-3330  
Fax (310) 727-3331

**Certificate of Mailing**

I hereby certify that this paper is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 on:

Date of Mailing: March 25, 2004

Printed Name of Depositor: Veronica Franco

Signature of Depositor: V. Franco

Date of Mailing: 03/25/04